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1999 DRAFTING REQUEST**Bill**

Received: **03/17/99**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Gary George (608) 266-2500**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Drunk Driving - alcohol level
Drunk Driving - penalties
Drunk Driving - procedures**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Omnibus drunk driving proposals

Instructions:

See Attached 99-2141/2, except do not increase mandatory minimums for repeat offenders

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nelsorp1 03/17/99	chanaman 03/18/99		_____ _____			
/1			martykr 03/19/99	_____ _____	lrb_docadmin 03/19/99	lrb_docadminS&L 03/23/99	

FE Sent For:

<END>

04-21-99

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/?	nelsorp1	cmr 1/1 3/18	jm 3/19	LP 3/19			

FE Sent For:

<END>

1999 ~~ASSEMBLY~~ BILL ~~224~~

March 16, 1999 - Introduced by Representatives STONE, FOTI, LADWIG, WARD, ZIEGELBAUER, KLUSMAN, OWENS, STASKUNAS, KELSO, LEIBHAM, URBAN, VRAKAS, GOETSCH, HUTCHISON and KREIBICH, cosponsored by Senators SHIBILSKI, ROESSLER, DRZEWIECKI, HUELSMAN and DARLING. Referred to Committee on Highway Safety.

regen cat.

1 AN ACT *to repeal* 346.65 (6) (a) 2.; *to renumber* 343.305 (10m), 940.09 (1d) and
2 940.25 (1d); *to renumber and amend* 343.10 (6), 343.21 (1) (j) and 346.65 (6)
3 (a) 1.; *to amend* 125.07 (4) (bs), 125.07 (4) (c), 125.07 (4) (e) 2. (intro.), 340.01
4 (46m) (b), 342.12 (4) (a), 342.12 (4) (c) 1. (intro.), 343.10 (5) (a) 3., 343.30 (1q) (b)
5 3., 343.30 (1q) (b) 4., 343.30 (6) (b), 343.305 (10) (b) 3., 343.305 (10) (b) 4., 343.31
6 (3) (bm) 3., 343.31 (3) (bm) 4., 343.31 (3) (c), 343.31 (3) (e), 343.31 (3) (f), 346.65
7 (2) (b), 346.65 (2) (c), 346.65 (2) (d), 346.65 (2) (e), 346.65 (2e), 346.65 (2g) (a),
8 346.65 (6) (a) 2m., 346.65 (6) (c), 346.65 (6) (d), 346.95 (2), 938.344 (2) (intro.),
9 938.344 (2) (c), 938.344 (2b), 938.344 (2d) (c) and 971.17 (1); *to create* 20.395
10 (5) (er), 85.55, 340.01 (46m) (c), 343.10 (6) (b), 343.21 (1) (j) 2., 343.30 (1q) (b)
11 4p., 343.305 (10m) (a), 343.31 (3) (bm) 4p., 346.65 (2) (g), 346.65 (6) (a) 1d.,
12 346.93 (2g), 940.09 (1d) (a), 940.25 (1c) and 940.25 (1d) (a) of the statutes; and
13 *to affect* 1997 Wisconsin Act 84, section 2, 1997 Wisconsin Act 84, section 3,
14 1997 Wisconsin Act 84, section 4, 1997 Wisconsin Act 84, section 5, 1997

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1 Wisconsin Act 84, section 30, 1997 Wisconsin Act 84, section 31, 1997 Wisconsin
2 Act 84, section 160, 1997 Wisconsin Act 84, section 161 and 1997 Wisconsin Act
3 84, section 162; **relating to:** operating a motor vehicle while under the
4 influence of an intoxicant or drugs, or both; installation of an ignition interlock
5 device in cases involving intoxicated operation of a motor vehicle; seizure of
6 motor vehicles for offenses related to driving while under the influence of an
7 intoxicant; the prohibited alcohol concentration related to operating a motor
8 vehicle while under the influence of an intoxicant; creating a safe-ride grant
9 program; certain alcohol beverage offenses committed by persons under the
10 legal drinking age; making an appropriation; and providing penalties.

Analysis by the Legislative Reference Bureau***Seizure of vehicles***

Under current law, if a person is convicted of operating a motor vehicle while under the influence of an intoxicant or controlled substance (OWI), including the improper refusal to submit to a test to determine if he or she operated a motor vehicle while having a prohibited blood alcohol level, and the person has two or more prior OWI-related convictions, suspensions or revocations within a ten-year period, a vehicle owned by that person may be seized and subject to forfeiture.

Current law requires the court, if the court does not order a motor vehicle seized in this situation, to order a law enforcement officer to immobilize or equip with an ignition interlock device a motor vehicle owned by the person. Under current law, if a person is convicted of OWI or refuses to submit to a test to determine his or her blood alcohol concentration and the person has three or more prior OWI-related convictions, suspensions or revocations, the court is required to order a law enforcement officer to seize a motor vehicle owned by the person.

This bill allows a court to order that a vehicle owned by a person convicted of a first OWI offense be equipped with an ignition interlock device. The bill removes the requirement that the court order a law enforcement officer to seize a motor vehicle owned by a person who is convicted of OWI or refuses to submit to a test to determine his or her blood alcohol concentration when the person has three or more prior OWI-related convictions, suspensions or revocations. The court continues to have the option of ordering the seizure of a motor vehicle, but the court is not required to order the seizure under this bill.

Under current law, the district attorney of the county where the motor vehicle was seized is required to bring the action to forfeit the seized motor vehicle. This bill

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allows that district attorney or the district attorney of the county where the violator was convicted to bring that action.

Blood alcohol concentration

Under current law, a person who has one or no prior OWI convictions, suspensions or revocations is prohibited from operating a motor vehicle if the alcohol concentration in the person's blood is 0.1 or more.

Current law prohibits a person who has two or more OWI convictions, suspensions or revocations from operating a motor vehicle if the alcohol concentration in the person's blood is 0.08 or more.

This bill prohibits a person who has three or more OWI convictions, suspensions or revocations from operating a motor vehicle if the alcohol concentration in the person's blood is more than 0.02.

Safe-ride grant program

The bill also creates a safe-ride grant program, administered by DOT, to award grants to any city, village, town or county for costs associated with transporting intoxicated persons from any premises licensed to sell alcohol beverages to their places of residence. Grants are limited to 50% of the cost of providing the service and are funded with revenues received from the increased occupational license fee and from the applicable \$30 increase in the fee to reinstate an operating privilege.

Increased imprisonment for OWI offenses

This bill increases the mandatory minimum imprisonment for persons convicted of an OWI offense from five days to 30 days for the second offense, 30 days to 60 days for the third offense and 60 days to 120 days for the fourth offense.

Increased penalties for high blood alcohol concentration

Under current law, the penalties for an OWI offense increase based on the number of prior OWI offenses that the person has committed. This bill doubles whatever penalty a person who has a second or subsequent OWI offense is subject to for the current OWI offense if the person's blood alcohol concentration is from 0.15 to 0.199. The bill triples the appropriate penalty if the person's blood alcohol concentration is from 0.20 to 0.249 and quadruples the appropriate penalty if the person's blood alcohol concentration is 0.25 or above. These penalty increases do not apply to homicide by intoxicated use of a vehicle. The maximum penalty for that offense is currently 40 years imprisonment and will become 60 years imprisonment on December 31, 1999.

Mandatory operating privilege suspension

Current law prohibits any person under 21 years of age (underage person) from knowingly possessing or consuming alcohol beverages, from procuring or attempting to procure alcohol beverages, from entering or attempting to enter premises licensed to sell alcohol beverages and from falsely representing his or her age for the purpose of receiving alcohol beverages. An underage person who violates these prohibitions may have his or her operating privilege suspended, may be required to pay a forfeiture or may be required to participate in a supervised work program or other community service work, or any combination of these penalties. The underage person's operating privilege may be suspended for varying periods depending upon

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the number of prior alcohol beverage offenses he or she committed within the previous 12 months, as follows:

1. For a first violation, suspension for not less than 30 days nor more than 90 days.

2. For a second violation, suspension for not more than one year.

3. For a third or subsequent violation, suspension for not more than two years.

This bill increases the operating privilege penalties that apply to certain alcohol beverage violations committed by an underage person. The bill makes mandatory the suspension of an underage person's operating privilege for violating the prohibitions described above and increases the period of suspension as follows:

1. For a first violation, suspension for not less than six months nor more than one year.

2. For a second violation committed within one year, suspension for not less than one year nor more than 18 months.

3. For a third or subsequent violation committed within one year, suspension for not less than two years nor more than five years.

Also under current law, with exceptions, no underage person may knowingly possess, transport or control any alcohol beverages in a motor vehicle. An underage person who violates these prohibitions may be required to forfeit not less than \$20 nor more than \$400 but, except for violations involving a commercial motor vehicle, is not subject to any action against his or her operating privilege. This bill makes mandatory the suspension of the underage person's operating privilege for the same longer periods that apply to the underage alcohol beverage offenses described above.

Finally, the bill eliminates the current authority of a court to stay or modify an operating privilege suspension ordered for certain alcohol beverage violations committed by an underage person who is at least 17 years of age.

Other

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.395 (5) (er) of the statutes is created to read:

2 20.395 (5) (er) *Safe-ride grant program, state funds.* All moneys received
3 under ss. 343.10 (6) (b) and 343.21 (1) (j) 2. that are credited to this appropriation,
4 for grants under s. 85.55.

5 **SECTION 2.** 85.55 of the statutes is created to read:

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1 **85.55 Safe-ride grant program.** The department may award grants to any
2 county or municipality to cover the costs of transporting persons suspected of having
3 a prohibited alcohol concentration, as defined in s. 340.01 (46m), from any premises
4 licensed under ch. 125 to sell alcohol beverages to their places of residence. The
5 amount of a grant under this section may not exceed 50% of the costs necessary to
6 provide the service. Grants awarded under this section shall be paid from the
7 appropriation under s. 20.395 (5) (er).

8 **SECTION 3.** 125.07 (4) (bs) of the statutes is amended to read:

9 125.07 (4) (bs) Any person violating par. (a) ~~is subject to the following penalties~~
10 shall be penalized as follows:

11 1. For a first violation, the person's operating privilege shall be suspended
12 under s. 343.30 (6) (b) 1. In addition, the person is subject to a forfeiture of not less
13 than \$250 nor more than \$500, suspension of the person's operating privilege as
14 provided under s. 343.30 (6) (b) 1., participation in a supervised work program or
15 other community service work under par. (cg) or any combination of these penalties.

16 2. For a violation committed within 12 months of a previous violation, the
17 person's operating privilege shall be suspended under s. 343.30 (6) (b) 2. In addition,
18 the person is subject to either a forfeiture of not less than \$300 nor more than \$500,
19 suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2.,
20 participation in a supervised work program or other community service work under
21 par. (cg) or any combination of these penalties.

22 3. For a violation committed within 12 months of 2 previous violations, the
23 person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In addition,
24 the person is subject to either a forfeiture of not less than \$500 nor more than \$750,
25 revocation of the person's operating privilege under s. 343.30 (6) (b) 3., participation

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SECTION 3

1 in a supervised work program or other community service work under par. (cg) or any
2 combination of these penalties.

3 4. For a violation committed within 12 months of 3 or more previous violations,
4 the person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In
5 addition, the person is subject to either a forfeiture of not less than \$750 nor more
6 than \$1,000, revocation of the person's operating privilege under s. 343.30 (6) (b) 3.,
7 participation in a supervised work program or other community service work under
8 par. (cg) or any combination of these penalties.

9 SECTION 4. 125.07 (4) (c) of the statutes is amended to read:

10 125.07 (4) (c) Any person violating par. (b) ~~is subject to the following penalties~~
11 shall be penalized as follows:

12 1. For a first violation, the person's operating privilege shall be suspended
13 under s. 343.30 (6) (b) 1. In addition, the person is subject to a forfeiture of not less
14 than \$100 nor more than \$200, suspension of the person's operating privilege as
15 provided under s. 343.30 (6) (b) 1., participation in a supervised work program or
16 other community service work under par. (cg) or any combination of these penalties.

17 2. For a violation committed within 12 months of a previous violation, the
18 person's operating privilege shall be suspended under s. 343.30 (6) (b) 2. In addition,
19 the person is subject to either a forfeiture of not less than \$200 nor more than \$300,
20 suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2.,
21 participation in a supervised work program or other community service work under
22 par. (cg) or any combination of these penalties.

23 3. For a violation committed within 12 months of 2 previous violations, the
24 person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In addition,
25 the person is subject to either a forfeiture of not less than \$300 nor more than \$500,

1 ~~revocation of the person's operating privilege under s. 343.30 (6) (b) 3.,~~ participation
2 in a supervised work program or other community service work under par. (cg) or any
3 combination of these penalties.

4 4. For a violation committed within 12 months of 3 or more previous violations,
5 the person's operating privilege shall be suspended under s. 343.30 (6) (b) 3. In
6 addition, the person is subject to either a forfeiture of not less than \$500 nor more
7 than \$1,000, ~~revocation of the person's operating privilege under s. 343.30 (6) (b) 3.,~~
8 participation in a supervised work program or other community service work under
9 par. (cg) or any combination of these penalties.

10 SECTION 5. 125.07 (4) (e) 2. (intro.) of the statutes is amended to read:

11 125.07 (4) (e) 2. (intro.) After ordering a penalty under par. (bs) or (c), the court,
12 with the agreement of the defendant, may enter an additional order staying the
13 execution of the penalty order and suspending or modifying the penalty imposed,
14 except that the court may not stay, suspend or modify the suspension of a person's
15 operating privilege required under par. (bs) or (c). The order under this subdivision
16 shall require the defendant to do any of the following:

17 SECTION 6. 340.01 (46m) (b) of the statutes is amended to read:

18 340.01 (46m) (b) If the person has 2 ~~or more~~ prior convictions, suspensions or
19 revocations, as counted under s. 343.307 (1), an alcohol concentration of 0.08 or more.

20 SECTION 7. 340.01 (46m) (c) of the statutes is created to read:

21 340.01 (46m) (c) If the person has 3 or more prior convictions, suspensions or
22 revocations, as counted under s. 343.307 (1), an alcohol concentration of more than
23 0.02.

24 SECTION 8. 342.12 (4) (a) of the statutes is amended to read:

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SECTION 8

1 342.12 (4) (a) The district attorney shall notify the department when he or she
2 files a criminal complaint against a person who has been arrested for violating s.
3 346.63 (1) or (2), 940.09 (1) or 940.25 ~~and who has 2 or more prior convictions,~~
4 ~~suspensions or revocations, as counted under s. 343.307 (1).~~ Except as provided
5 under par. (c), the department may not issue a certificate of title transferring
6 ownership of any motor vehicle owned by the person upon receipt of a notice under
7 this subsection until the court assigned to hear the criminal complaint issues an
8 order permitting the department to issue a certificate of title.

9 **SECTION 9.** 342.12 (4) (c) 1. (intro.) of the statutes is amended to read:

10 342.12 (4) (c) 1. (intro.) The department shall issue a certificate of title
11 transferring ownership of a motor vehicle that was owned by a person who has
12 received a notice of intent to revoke the person's operating privilege under s. 343.305
13 (9) (a) or has been arrested for violating s. 346.63 (1) or (2), 940.09 (1) or 940.25 ~~and~~
14 ~~who has 2 or more prior convictions, suspensions or revocations, as counted under~~
15 ~~s. 343.307 (1),~~ if all of the following conditions are met:

16 **SECTION 10.** 343.10 (5) (a) 3. of the statutes is amended to read:

17 343.10 (5) (a) 3. ~~If the applicant has 2 or more prior convictions, suspensions~~
18 ~~or revocations, as counted under s. 343.307 (1), the~~ The occupational license of the
19 applicant shall restrict the applicant's operation under the occupational license to
20 vehicles that are equipped with a functioning ignition interlock device if the court
21 has ordered under s. 346.65 (6) (a) ~~1. 1d. or 1g.~~ that a motor vehicle owned by the
22 person be equipped with an ignition interlock device. A person to whom a restriction
23 under this subdivision applies violates that restriction if he or she requests or
24 permits another to blow into an ignition interlock device or to start a motor vehicle
25 equipped with an ignition interlock device for the purpose of providing the person an

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1 operable motor vehicle without the necessity of first submitting a sample of his or her
2 breath to analysis by the ignition interlock device. If the occupational license
3 restricts the applicant's operation to a vehicle that is equipped with an ignition
4 interlock device, the applicant shall be liable for the reasonable costs of equipping
5 the vehicle with the ignition interlock device.

6 SECTION 11. 343.10 (6) of the statutes is renumbered 343.10 (6) (a) and
7 amended to read:

8 343.10 (6) (a) ~~No~~ Except as provided in par. (b), no person may file an
9 application for an occupational license under sub. (1) unless he or she first pays a fee
10 of \$40 to the department.

11 SECTION 12. 343.10 (6) (b) of the statutes is created to read:

12 343.10 (6) (b) No person whose operating privilege is restricted to operating
13 only vehicles equipped with an ignition interlock device may file an application for
14 an occupational license under sub. (1) unless he or she first pays a fee of \$70 to the
15 department. Forty-three percent of the fees collected under this paragraph shall be
16 credited to the appropriation account under s. 20.395 (5) (er).

17 SECTION 13. 343.21 (1) (j) of the statutes is renumbered 343.21 (1) (j) 1. and
18 amended to read:

19 343.21 (1) (j) 1. ~~For~~ Except as provided in subd. 2., for reinstatement of an
20 operating privilege previously revoked or suspended, \$50.

21 SECTION 14. 343.21 (1) (j) 2. of the statutes is created to read:

22 343.21 (1) (j) 2. For reinstatement of an operating privilege previously revoked
23 or suspended, \$80 if the person's operating privilege is restricted under s. 343.38 (5)
24 to operating vehicles equipped with an ignition interlock device and the person has
25 not paid a fee under s. 343.10 (6) (b) within the past 2 years. Thirty-eight percent

1 of the fees collected under this subdivision shall be credited to the appropriation
2 under s. 20.395 (5) (er).

3 **SECTION 15.** 343.30 (1q) (b) 3. of the statutes is amended to read:

4 343.30 (1q) (b) 3. Except as provided in subd. 4m. or 4p., if the number of
5 convictions, suspensions and revocations within a 10-year period equals 2, the court
6 shall revoke the person's operating privilege for not less than one year nor more than
7 18 months. After the first 60 days of the revocation period, the person is eligible for
8 an occupational license under s. 343.10 if he or she has completed the assessment and
9 is complying with the driver safety plan ordered under par. (c).

10 **SECTION 16.** 343.30 (1q) (b) 4. of the statutes is amended to read:

11 343.30 (1q) (b) 4. Except as provided in subd. 4m. or 4p., if the number of
12 convictions, suspensions and revocations equals 3 or more, the court shall revoke the
13 person's operating privilege for not less than 2 years nor more than 3 years. After
14 the first 90 days of the revocation period, the person is eligible for an occupational
15 license under s. 343.10 if he or she has completed the assessment and is complying
16 with the driver safety plan ordered under par. (c).

17 **SECTION 17.** 343.30 (1q) (b) 4p. of the statutes is created to read:

18 343.30 (1q) (b) 4p. If he or she had an alcohol concentration of 0.15 to 0.199,
19 the applicable minimum and maximum suspension or revocation periods under
20 subd. 3. or 4. for the conviction are doubled. If the person convicted under s. 346.63
21 (1) or a local ordinance in conformity with s. 346.63 (1) had an alcohol concentration
22 of 0.20 to 0.249, the applicable minimum and maximum suspension or revocation
23 periods under subd. 3. or 4. for the conviction are tripled. If the person convicted
24 under s. 346.63 (1) or a local ordinance in conformity with s. 346.63 (1) had an alcohol

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1 concentration of 0.25 or above, the applicable minimum and maximum suspension
2 or revocation periods under subd. 3. or 4. for the conviction are quadrupled.

3 SECTION 18. 343.30 (6) (b) of the statutes is amended to read:

4 343.30 (6) (b) If Whenever a court imposes suspension ~~or revocation~~ of a
5 person's operating privilege under s. 125.07 (4) (~~bs~~) or (c) or 938.344 (2), (2b) or (2d),
6 the suspension ~~or revocation~~ imposed shall be one of the following:

7 1. For a first violation, suspension for ~~30 to 90 days~~ not less than 6 months nor
8 more than one year.

9 2. For a violation committed within 12 months of a previous violation,
10 suspension for not ~~more~~ less than one year nor more than 18 months.

11 3. For a violation committed within 12 months of 2 or more previous violations,
12 ~~revocation~~ suspension for not ~~more~~ less than 2 years nor more than 5 years.

13 SECTION 19. 343.305 (10) (b) 3. of the statutes is amended to read:

14 343.305 (10) (b) 3. Except as provided in subd. 4m., if the number of convictions,
15 suspensions and revocations within a 10-year period equals 2, the court shall revoke
16 the person's operating privilege for not less than 2 years nor more than 6 years. After
17 the first 90 days of the revocation period, the person is eligible for an occupational
18 license under s. 343.10 if he or she has completed the assessment and is complying
19 with the driver safety plan.

20 SECTION 20. 343.305 (10) (b) 4. of the statutes is amended to read:

21 343.305 (10) (b) 4. Except as provided in subd. 4m., if the number of convictions,
22 suspensions and revocations equals 3 or more, the court shall revoke the person's
23 operating privilege for not less than 3 years nor more than 12 years. After the first
24 120 days of the revocation period, the person is eligible for an occupational license

1 under s. 343.10 if he or she has completed the assessment and is complying with the
2 driver safety plan.

3 **SECTION 21.** 343.305 (10m) of the statutes is renumbered 343.305 (10m) (b).

4 **SECTION 22.** 343.305 (10m) (a) of the statutes is created to read:

5 343.305 (10m) (a) If the person's operating privilege is revoked under sub. (10),
6 the procedure under s. 346.65 (6) shall be followed regarding the equipping of a motor
7 vehicle owned by the person with an ignition interlock device.

8 **SECTION 23.** 343.31 (3) (bm) 3. of the statutes is amended to read:

9 343.31 (3) (bm) 3. Except as provided in subd. 4m. or 4p., if the number of
10 suspensions, revocations and convictions within a 10-year period equals 2, the
11 department shall revoke the person's operating privilege for not less than one year
12 nor more than 18 months. If an Indian tribal court in this state revokes the person's
13 privilege to operate a motor vehicle on tribal lands for not less than one year nor more
14 than 18 months for the conviction specified in par. (bm) (intro.), the department shall
15 impose the same period of revocation. After the first 60 days of the revocation period,
16 the person is eligible for an occupational license under s. 343.10.

17 **SECTION 24.** 343.31 (3) (bm) 4. of the statutes is amended to read:

18 343.31 (3) (bm) 4. Except as provided in subd. 4m. or 4p., if the number of
19 suspensions, revocations and convictions equals 3 or more, the department shall
20 revoke the person's operating privilege for not less than 2 years nor more than 3
21 years. If an Indian tribal court in this state revokes the person's privilege to operate
22 a motor vehicle on tribal lands for not less than 2 years nor more than 3 years for the
23 conviction specified in par. (bm) (intro.), the department shall impose the same
24 period of revocation. After the first 90 days of the revocation period, the person is
25 eligible for an occupational license under s. 343.10.

1 **SECTION 25.** 343.31 (3) (bm) 4p. of the statutes is created to read:

2 343.31 (3) (bm) 4p. If he or she had an alcohol concentration of 0.15 to 0.199,
3 the applicable minimum and maximum suspension or revocation periods under
4 subd. 3. or 4. for the conviction are doubled. If the person convicted under a law of
5 a federally recognized American Indian tribe or band in this state in conformity with
6 s. 346.63 (1) had an alcohol concentration of 0.20 to 0.249, the applicable minimum
7 and maximum suspension or revocation periods under subd. 3. or 4. for the conviction
8 are tripled. If the person convicted under a law of a federally recognized American
9 Indian tribe or band in this state in conformity with s. 346.63 (1) had an alcohol
10 concentration of 0.25 or above, the applicable minimum and maximum suspension
11 or revocation periods under subd. 3. or 4. for the conviction are quadrupled.

12 **SECTION 26.** 343.31 (3) (c) of the statutes is amended to read:

13 343.31 (3) (c) Any person convicted under s. 940.09 (1) of causing the death of
14 another or of an unborn child by the operation or handling of a motor vehicle shall
15 have his or her operating privilege revoked for 5 years. If there was a minor
16 passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1), in the
17 motor vehicle at the time of the violation that gave rise to the conviction under s.
18 940.09 (1), the revocation period is 10 years. If the person convicted under s. 940.09
19 (1) had any previous suspensions, revocations or convictions that would be counted
20 under s. 343.307 (1) and had an alcohol concentration of 0.15 to 0.199, the revocation
21 period is 10 years. If the person convicted under s. 940.09 (1) had any previous
22 suspensions, revocations or convictions that would be counted under s. 343.307 (1)
23 and had an alcohol concentration of 0.20 to 0.249, the revocation period is 15 years.
24 If the person convicted under s. 940.09 (1) had any previous suspensions, revocations

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1 or convictions that would be counted under s. 343.307 (1) and had an alcohol
2 concentration of 0.25 or above, the revocation period is 20 years.

3 SECTION 27. 343.31 (3) (e) of the statutes is amended to read:

4 343.31 (3) (e) Any person convicted under s. 346.63 (2) shall have his or her
5 operating privilege revoked for not less than one year nor more than 2 years. If there
6 was a minor passenger under 16 years of age in the motor vehicle at the time of the
7 violation that gave rise to the conviction under s. 346.63 (2), the minimum and
8 maximum revocation periods are doubled. If the person convicted under s. 346.63
9 (2) had any previous suspensions, revocations or convictions that would be counted
10 under s. 343.307 (1) and had an alcohol concentration of 0.15 to 0.199, the minimum
11 and maximum revocation periods are doubled. If the person convicted under s.
12 346.63 (2) had any previous suspensions, revocations or convictions that would be
13 counted under s. 343.307 (1) and had an alcohol concentration of 0.20 to 0.249, the
14 minimum and maximum revocation periods are tripled. If the person convicted
15 under s. 346.63 (2) had any previous suspensions, revocations or convictions that
16 would be counted under s. 343.307 (1) and had an alcohol concentration of 0.25 or
17 above, the minimum and maximum revocation periods are quadrupled.

18 SECTION 28. 343.31 (3) (f) of the statutes is amended to read:

19 343.31 (3) (f) Any person convicted under s. 940.25 shall have his or her
20 operating privilege revoked for 2 years. If there was a minor passenger under 16
21 years of age or an unborn child, as defined in s. 939.75 (1), in the motor vehicle at the
22 time of the violation that gave rise to the conviction under s. 940.25, the revocation
23 period is 4 years. If the person convicted under s. 940.25 had any previous
24 suspensions, revocations or convictions that would be counted under s. 343.307 (1)
25 and had an alcohol concentration of 0.15 to 0.199, the revocation period is 4 years.

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1 If the person convicted under s. 940.25 had any previous suspensions, revocations
2 or convictions that would be counted under s. 343.307 (1) and had an alcohol
3 concentration of 0.20 to 0.249, the revocation period is 6 years. If the person
4 convicted under s. 940.25 had any previous suspensions, revocations or convictions
5 that would be counted under s. 343.307 (1) and had an alcohol concentration of 0.25
6 or above, the revocation period is 8 years.

7 **SECTION 29.** 346.65 (2) (b) of the statutes is amended to read:

8 346.65 (2) (b) Except as provided in ~~par. pars.~~ (f) and (g), shall be fined not less
9 than \$300 nor more than \$1,000 and imprisoned for not less than ~~5~~ ^{5 plain text} days nor more
10 than 6 months if the total number of suspensions, revocations and convictions
11 counted under s. 343.307 (1) equals 2 within a 10-year period. Suspensions,
12 revocations or convictions arising out of the same incident or occurrence shall be
13 counted as one.

14 **SECTION 30.** 346.65 (2) (c) of the statutes is amended to read:

15 346.65 (2) (c) Except as provided in ~~par. pars.~~ (f) and (g), shall be fined not less
16 than \$600 nor more than \$2,000 and imprisoned for not less than ~~30~~ ^{30 plain text} days nor more
17 than one year in the county jail if the total number of suspensions, revocations and
18 convictions counted under s. 343.307 (1) equals 3, except that suspensions,
19 revocations or convictions arising out of the same incident or occurrence shall be
20 counted as one.

21 **SECTION 31.** 346.65 (2) (d) of the statutes is amended to read:

22 346.65 (2) (d) Except as provided in ~~par. pars.~~ (f) and (g), shall be fined not less
23 than \$600 nor more than \$2,000 and imprisoned for not less than ~~60~~ ^{60 plain text} days nor
24 more than one year in the county jail if the total number of suspensions, revocations
25 and convictions counted under s. 343.307 (1) equals 4, except that suspensions,

1 revocations or convictions arising out of the same incident or occurrence shall be
2 counted as one.

3 **SECTION 32.** 346.65 (2) (e) of the statutes is amended to read:

4 346.65 (2) (e) Except as provided in ~~par.~~ pars. (f) and (g), shall be fined not less
5 than \$600 nor more than \$2,000 and imprisoned for not less than 6 months nor more
6 than 5 years if the total number of suspensions, revocations and convictions counted
7 under s. 343.307 (1) equals 5 or more, except that suspensions, revocations or
8 convictions arising out of the same incident or occurrence shall be counted as one.

9 **SECTION 33.** 346.65 (2) (g) of the statutes is created to read:

10 346.65 (2) (g) Shall, if he or she had an alcohol concentration of 0.15 to 0.199,
11 be penalized double the applicable minimum and maximum forfeitures, fines or
12 imprisonments under pars. (b) to (e). If the person had an alcohol concentration of
13 0.20 to 0.249, he or she shall be penalized triple the applicable minimum and
14 maximum forfeitures, fines or imprisonments under pars. (b) to (e). If the person had
15 an alcohol concentration of 0.25 or above, he or she shall be penalized four times the
16 applicable minimum and maximum forfeitures, fines or imprisonments under pars.
17 (b) to (e). An offense under s. 346.63 (1) that subjects a person to a penalty under par.
18 (c), (d) or (e) when the person had an alcohol concentration of 0.15 or above is a felony
19 and the place of imprisonment shall be determined under s. 973.02. An offense under
20 s. 346.63 (1) that subjects a person to a penalty under par. (b), (c), (d) or (e) when the
21 person had an alcohol concentration of 0.20 or more is a felony and the place of
22 imprisonment shall be determined under s. 973.02.

23 **SECTION 34.** 346.65 (2e) of the statutes is amended to read:

24 346.65 (2e) If the court determines that a person does not have the ability to
25 pay the costs and fine or forfeiture imposed under sub. (2) (a), ~~(b), (c), (d), (e) or (f)~~ to

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1 (g), the court may reduce the costs, fine and forfeiture imposed and order the person
2 to pay, toward the cost of the assessment and driver safety plan imposed under s.
3 343.30 (1q) (c), the difference between the amount of the reduced costs and fine or
4 forfeiture and the amount of costs and fine or forfeiture imposed under sub. (2) (a),
5 ~~(b), (c), (d), (e) or (f)~~ to (g).

6 **SECTION 35.** 346.65 (2g) (a) of the statutes is amended to read:

7 346.65 (2g) (a) In addition to the authority of the court under s. 973.05 (3) (a)
8 to provide that a defendant perform community service work for a public agency or
9 a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.
10 (2) (b) to ~~(f)~~ (g), the court may provide that a defendant perform community service
11 work for a public agency or a nonprofit charitable organization in lieu of part or all
12 of a forfeiture under sub. (2) (a) or may require a person who is subject to sub. (2) to
13 perform community service work for a public agency or a nonprofit charitable
14 organization in addition to the penalties specified under sub. (2). Notwithstanding
15 s. 973.05 (3) (b), an order may only apply if agreed to by the organization or agency.
16 The court shall ensure that the defendant is provided a written statement of the
17 terms of the community service order and that the community service order is
18 monitored. Any organization or agency acting in good faith to which a defendant is
19 assigned pursuant to an order under this subsection has immunity from any civil
20 liability in excess of \$25,000 for acts or omissions by or impacting on the defendant.
21 The issuance or possibility of the issuance of a community service order under this
22 subsection does not entitle an indigent defendant who is subject to sub. (2) (a) to
23 representation by counsel under ch. 977.

24 **SECTION 36.** 346.65 (6) (a) 1. of the statutes is renumbered 346.65 (6) (a) 1g. and
25 amended to read:

1 346.65 (6) (a) 1g. Except as provided in this paragraph, the court may order a
2 law enforcement officer to seize a motor vehicle, or, if the motor vehicle is not ordered
3 seized, shall order a law enforcement officer to equip the motor vehicle with an
4 ignition interlock device or immobilize any motor vehicle owned by the person whose
5 operating privilege is revoked under s. 343.305 (10) or who committed a violation of
6 s. 346.63 (1) (a), (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b),
7 (c) or (d) if the person whose operating privilege is revoked under s. 343.305 (10) or
8 who is convicted of the violation has 2 or more prior suspensions, revocations or
9 convictions that would be counted under s. 343.307 (1). The court shall not order a
10 motor vehicle equipped with an ignition interlock device or immobilized if that would
11 result in undue hardship or extreme inconvenience or would endanger the health
12 and safety of a person.

13 **SECTION 37.** 346.65 (6) (a) 1d. of the statutes is created to read:

14 346.65 (6) (a) 1d. Except as provided in this subdivision, the court may order
15 a law enforcement officer to equip with an ignition interlock device a motor vehicle
16 owned by the person whose operating privilege is revoked under s. 343.305 (10) or
17 who committed a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a),
18 (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d). The court shall not order a motor vehicle
19 equipped with an ignition interlock device if that would result in undue hardship or
20 extreme inconvenience or would endanger the health or safety of a person.

21 **SECTION 38.** 346.65 (6) (a) 2. of the statutes is repealed.

22 **SECTION 39.** 346.65 (6) (a) 2m. of the statutes is amended to read:

23 346.65 (6) (a) 2m. A person who owns a motor vehicle subject to seizure,
24 equipping with an ignition interlock device or immobilization under this paragraph
25 shall surrender to the clerk of circuit court the certificate of title issued under ch. 342

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1 for every motor vehicle owned by the person. The person shall comply with this
2 subdivision within 5 working days after receiving notification of this requirement
3 from the district attorney. When a district attorney receives a copy of a notice of
4 intent to revoke the operating privilege under s. 343.305 (9) (a) ~~of a person who has~~
5 ~~2 or more convictions, suspensions or revocations, as counted under s. 343.307 (1),~~
6 or when a district attorney notifies the department of the filing of a criminal
7 complaint against a person under s. 342.12 (4) (a), the district attorney shall notify
8 the person of the requirement to surrender all certificates of title to the clerk of circuit
9 court. The notification shall include the time limits for that surrender, the penalty
10 for failure to comply with the requirement and the address of the clerk of circuit
11 court. The clerk of circuit court shall promptly return each certificate of title
12 surrendered to the clerk of circuit court under this subdivision after stamping the
13 certificate of title with the notation "Per section 346.65 (6) of the Wisconsin statutes,
14 ownership of this motor vehicle may not be transferred without prior court approval".
15 Any person failing to surrender a certificate of title as required under this
16 subdivision shall forfeit not more than \$500.

17 SECTION 40. 346.65 (6) (c) of the statutes is amended to read:

18 346.65 (6) (c) The district attorney of the county where the motor vehicle was
19 seized, or of the county where the owner's operating privilege was revoked under s.
20 343.305 (10) or where the owner committed the violation under s. 346.63 (1) (a) or
21 (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d), shall
22 commence an action to forfeit the motor vehicle within 30 days after the motor vehicle
23 is seized. The action shall name the owner of the motor vehicle and all lienholders
24 of record as parties. The forfeiture action shall be commenced by filing a summons,
25 complaint and affidavit of the law enforcement agency with the clerk of circuit court.

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SECTION 40

1 Upon service of an answer, the action shall be set for hearing within 60 days after
2 the service of the answer. If no answer is served or no issue of law or fact joined and
3 the time for that service or joining of issues has expired, the court may render a
4 default judgment as provided in s. 806.02.

5 **SECTION 41.** 346.65 (6) (d) of the statutes is amended to read:

6 346.65 (6) (d) At the hearing set under par. (c), the state has the burden of
7 proving to a reasonable certainty by the greater weight of the credible evidence that
8 the motor vehicle is a motor vehicle owned by a person who committed a violation of
9 s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a),
10 (b), (c) or (d) and, if the seizure is under par. (a) ~~1.~~ 1g., that the person had 2 or more
11 prior convictions, suspensions or revocations, as counted under s. 343.307 (1) ~~or, if~~
12 ~~the seizure is under par. (a) 2., 3 or more prior convictions, suspensions or~~
13 ~~revocations, as counted under s. 343.307 (1).~~ If the ~~„(e) or (d)“, (e) or (d)~~ state fails
14 to meet the burden of proof required under this paragraph, the motor vehicle shall
15 be returned to the owner upon the payment of storage costs.

16 **SECTION 42.** 346.93 (2g) of the statutes is created to read:

17 346.93 (2g) Any person violating this section may be required to forfeit not less
18 than \$20 nor more than \$400 and shall have his or her operating privilege:

19 (a) For a first violation, suspended under s. 343.30 (6) (b) 1.

20 (b) For a violation committed within 12 months of a previous violation,
21 suspended under s. 343.30 (6) (b) 2.

22 (c) For a violation committed within 12 months of 2 or more previous violations,
23 suspended under s. 343.30 (6) (b) 3.

24 **SECTION 43.** 346.95 (2) of the statutes is amended to read:

1 346.95 (2) Any person violating s. 346.89 (1), ~~346.93~~ or 346.94 (2), (4) or (7) may
2 be required to forfeit not less than \$20 nor more than \$400.

3 **SECTION 44.** 938.344 (2) (intro.) of the statutes is amended to read:

4 938.344 (2) (intro.) If a court finds a juvenile committed a violation under s.
5 ~~125.07 (4) (b) or~~ 125.09 (2), or a local ordinance that strictly conforms to one of those
6 statutes that statute, the court shall order one or any combination of the following
7 penalties:

8 **SECTION 45.** 938.344 (2) (c) of the statutes is amended to read:

9 938.344 (2) (c) For a violation committed within 12 months of 2 or more
10 previous violations, a forfeiture of not more than \$500, ~~revocation~~ suspension of the
11 juvenile's operating privilege as provided under s. 343.30 (6) (b) 3. or the juvenile's
12 participation in a supervised work program or other community service work under
13 s. 938.34 (5g).

14 **SECTION 46.** 938.344 (2b) of the statutes is amended to read:

15 938.344 (2b) If a court finds a juvenile committed a violation under s. 125.07
16 (4) (a) or (b), or a local ordinance which strictly conforms to s. 125.07 (4) (a) or (b), the
17 court shall order one or any combination of the following penalties:

18 (a) For a first violation, a forfeiture of not less than \$250 nor more than \$500,
19 ~~suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 1.~~
20 or the juvenile's participation in a supervised work program or other community
21 service work under s. 938.34 (5g). In addition to any penalty imposed under this
22 paragraph, the court shall suspend the juvenile's operating privilege as provided in
23 s. 343.30 (6) (b) 1.

24 (b) For a violation committed within 12 months of a previous violation, a
25 forfeiture of not less than \$300 nor more than \$500, ~~suspension of the juvenile's~~

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SECTION 46

1 ~~operating privilege as provided under s. 343.30 (6) (b) 2.~~ or the juvenile's
2 participation in a supervised work program or other community service work under
3 s. 938.34 (5g). In addition to any penalty imposed under this paragraph, the court
4 shall suspend the juvenile's operating privilege as provided in s. 343.30 (6) (b) 2.

5 (c) For a violation committed within 12 months of 2 or more previous violations,
6 a forfeiture of \$500, ~~revocation of the juvenile's operating privilege as provided under~~
7 ~~s. 343.30 (6) (b) 3.~~ or the juvenile's participation in a supervised work program or
8 other community service work under s. 938.34 (5g). In addition to any penalty
9 imposed under this paragraph, the court shall suspend the juvenile's operating
10 privilege as provided in s. 343.30 (6) (b) 3.

11 SECTION 47. 938.344 (2d) (c) of the statutes is amended to read:

12 938.344 (2d) (c) For a violation committed within 12 months of 2 or more
13 previous violations, a forfeiture of \$500, ~~revocation~~ suspension of the juvenile's
14 operating privilege as provided under s. 343.30 (6) (b) 3. or the juvenile's
15 participation in a supervised work program or other community service work under
16 s. 938.34 (5g).

17 SECTION 48. 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b).

18 SECTION 49. 940.09 (1d) (a) of the statutes is created to read:

19 940.09 (1d) (a) If a person commits an offense under sub. (1) (a), (b), (c) or (d),
20 the procedure under s. 346.65 (6) may be followed regarding the equipping of a motor
21 vehicle owned by the person with an ignition interlock device.

22 SECTION 50. 940.25 (1c) of the statutes is created to read:

23 940.25 (1c) If the person convicted under sub. (1) (a), (b), (c) or (d) had any
24 previous suspensions, revocations or convictions that would be counted under s.
25 343.307 (1) and had an alcohol concentration of 0.15 to 0.199, the applicable

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1 maximum fine or imprisonment for the conviction is doubled. If the person convicted
2 under sub. (1) (a), (b), (c) or (d) had any previous suspensions, revocations or
3 convictions that would be counted under s. 343.307 (1) and had an alcohol
4 concentration of 0.20 to 0.249, the applicable maximum fine or imprisonment for the
5 conviction is tripled. If the person convicted under sub. (1) (a), (b), (c) or (d) had any
6 previous suspensions, revocations or convictions that would be counted under s.
7 343.307 (1) and had an alcohol concentration of 0.25 or above, the applicable
8 maximum fine or imprisonment for the conviction is quadrupled.

9 **SECTION 51.** 940.25 (1d) of the statutes is renumbered 940.25 (1d) (b).

10 **SECTION 52.** 940.25 (1d) (a) of the statutes is created to read:

11 940.25 (1d) (a) If a person commits an offense under sub. (1) (a), (b), (c) or (d),
12 the procedure under s. 346.65 may be followed regarding the equipping of a motor
13 vehicle owned by the person with an ignition interlock device.

14 **SECTION 53.** 971.17 (1) of the statutes is amended to read:

15 971.17 (1) COMMITMENT PERIOD. When a defendant is found not guilty by reason
16 of mental disease or mental defect, the court shall commit the person to the
17 department of health and family services for a specified period not exceeding
18 two-thirds of the maximum term of imprisonment that could be imposed under s.
19 973.15 (2) (a) against an offender convicted of the same crime or crimes, including
20 imprisonment authorized by ss. 346.65 (2) (f) or (g), (2j) (d) or (3m), 939.62, 939.621,
21 939.63, 939.635, 939.64, 939.641, 939.645, 940.09 (1b), 940.25 (1b) and 961.48 and
22 other penalty enhancement statutes, as applicable, subject to the credit provisions
23 of s. 973.155. If the maximum term of imprisonment is life, the commitment period
24 specified by the court may be life, subject to termination under sub. (5).

25 **SECTION 54.** 1997 Wisconsin Act 84, section 2 is repealed.

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1 **SECTION 55.** 1997 Wisconsin Act 84, section 3 is repealed.

2 **SECTION 56.** 1997 Wisconsin Act 84, section 4 is repealed.

3 **SECTION 57.** 1997 Wisconsin Act 84, section 5 is repealed.

4 **SECTION 58.** 1997 Wisconsin Act 84, section 30 is repealed.

5 **SECTION 59.** 1997 Wisconsin Act 84, section 31 is repealed.

6 **SECTION 60.** 1997 Wisconsin Act 84, section 160 is repealed.

7 **SECTION 61.** 1997 Wisconsin Act 84, section 161 is repealed.

8 **SECTION 62.** 1997 Wisconsin Act 84, section 162 is repealed.

9 **SECTION 63. Initial applicability.**

10 (1) **MANDATORY OPERATING PRIVILEGE SUSPENSIONS.** The treatment of sections
11 125.07 (4) (bs), (c) and (e) 2. (intro.), 343.30 (6) (b), 346.93 (2g), 346.95 (2) and 938.344
12 (2) (intro.) and (c), (2b) and (2d) (c) of the statutes first applies to violations committed
13 on the effective date of this subsection, but does not preclude the counting of other
14 violations as prior violations for sentencing a person or for suspending or revoking
15 a person's operating privilege.

16 (2) **INTOXICATED DRIVER PROGRAMS.** The treatment of sections 20.395 (5) (er),
17 85.55, 340.01 (46m) (b) and (c), 342.12 (4) (a) and (c) 1. (intro.), 343.10 (5) (a) 3. and
18 (6) (b), 343.21 (1) (j) 2., 343.30 (1q) (b) 3., 4. and 4p., 343.305 (10) (b) 3. and 4. and
19 (10m) (a), 343.31 (3) (bm) 3., 4. and 4p., (c), (e) and (f), 346.65 (2) (b), (c), (d), (e) and
20 (g), (2e), (2g) (a) and (6) (a) 1., 1d., 2. and 2m. and (d), 940.09 (1d) (a), 940.25 (1c) and
21 (1d) (a) and 971.17 (1) of the statutes, the renumbering of sections 343.305 (10m),
22 940.09 (1d) and 940.25 (1d) of the statutes and the renumbering and amendment of
23 sections 343.10 (6) and 343.21 (1) (j) of the statutes first apply to violations committed
24 or refusals occurring on the effective date of this subsection, but does not preclude
25 the counting of other convictions, suspensions or revocations as prior convictions,

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1 suspensions or revocations for purposes of administrative action by the department
2 of transportation, sentencing by a court, revocation or suspension of operating
3 privileges or determining the prohibited alcohol concentration.

4 **SECTION 64. Effective date.**

5 (1) This act takes effect on the first day of the 4th month beginning after
6 publication.

7 (END)

SUBMITTAL FORM

LEGISLATIVE REFERENCE BUREAU Legal Section Telephone: 266-3561 5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 3/19/99

To: Senator George

Relating to LRB drafting number: LRB-2513

Topic

Omnibus drunk driving proposals

Subject(s)

Drunk Driving - alcohol level, Drunk Driving penalties, Drunk Driving - procedures

1. **JACKET** the draft for introduction

in the Senate ☒ or the Assembly ☐ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney
Telephone: (608) 267-7511